

RVWPET No. 11 of 2006

Misc. Case No. 17 of 2008

A. Anand *Petitioner.*
-Vs-
Union of India & Others *Opp. Parties.*

07. 07.01.2015 Heard Mr. A. Anand, petitioner in person and Mr. D.K. Sahoo, learned counsel for the opposite party-Railways.

The instant application has been filed for recalling the order dated 01.11.2007 whereby the Review Petition No. 11 of 2006, arising out of O.J.C. No. 15425 of 2001 disposed of on 3.3.2005, had been rejected. As the said review petition was barred by time, this Court by order dated 1.11.2007 had also dismissed the application for condonation of delay observing that no sufficient cause had been proffered.

In short, the facts relevant for consideration of this Misc. Case are that the petitioner's father while working with the Railways had sought voluntary retirement on the ground of sickness. His request having been accepted, the petitioner applied for compassionate appointment but the same was rejected by the Divisional Personnel Officer, South Eastern Railway by order dated 25.4.1997 recording the finding that his (petitioner) father was neither declared medically unfit nor de-categorised and thus his case was not covered by the

relevant rules for extending the employment assistance to the sons/wards of the concerned employee on compassionate ground.

Challenging the same, though the petitioner approached the Central Administrative Tribunal, Cuttack Bench, Cuttack in O.A. No. 309 of 2000, the same was dismissed as well holding principally that the precondition for compassionate appointment qua a ward of a Railway employee dying in harness were not fulfilled. The petitioner thereafter turned to this Court in O.J.C. No. 15425 of 2001, which by judgment and order dated 3.3.2005 had been dismissed also on the same ground.

A belated application for review of the judgment and order dated 3.3.2005 was filed being RVWPET No. 11 of 2006 along with an application being Misc. Case No. 14/2006 for condonation of delay in filing the review petition. By order dated 1.11.2007, a coordinate Bench of this Court dismissed the application for condonation of delay observing that the petitioner had failed to show sufficient cause to explain the delay. Vis-à-vis merit, it was held that the judgment and order dated 3.3.2005 did not suffer from

any error apparent on the fact of the record. As a consequence, both the application for condonation of delay as well as the review petition was dismissed.

To reiterate, the instant application i.e. Misc. Case No. 17 of 2008 is for recalling the order dated 1.11.2007.

It has been averred in the instant petition that the petitioner was left shocked and exasperated by the rejection of the writ petition so much so that he fell ill and as ill luck would have it, his father also expired and as a result there was delay in filing the review petition. He has further averred that if the order dated 1.11.2007 is recalled and judgment and order dated 3.3.2005 is set aside, he would suffer irreparable loss and injury.

The petitioner in person has emphatically reiterated the above.

Learned counsel for the opposite party-Railways has submitted that as it has been consistently held that the necessary prerequisites for availing compassionate appointment under the relevant scheme of the railways are not existent in the facts and circumstances of the case, the instant application is liable to be dismissed in limine.

Upon hearing the petitioner in person and the learned counsel for the opposite party and on a consideration of the entire gamut of the case, we are of the unhesitant opinion that in the backdrop of the facts narrated hereinabove, the instant application does not merit consideration. Even assuming that the petitioner had shown sufficient cause for the delay in filing the Review Petition, according to us, having regard to the facts and circumstances and the concurrent finding recorded by the learned Tribunal as well as the co-ordinate Bench of this Court, we see no persuasive reason to review the judgment and order dated 3.3.2005.

In the above view of the matter, order dated 01.11.2007 does not require any interference by this Court.

The Misc. Case is thus dismissed.

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Amitava Roy, C.J.

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Dr. A.K. Rath, J.

A.Dash.